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The Parliamentary Committee on Agriculture, Forestry and Fisheries

Submission on the draft Plant Improvement Bill

Thank you for the opportunity to submit our comments on the draft Plant Improvement Bill. We would also like to thank you for the opportunity to give an oral submission to the Parliamentary Committee on Agriculture, Forestry and Fisheries.

Our submission follows below and consists of:

- Background on Biowatch South Africa
- Context of Seed Regulations
- Key challenges for South Africa
- Comments on specific provisions in the Plant Improvement Bill
- Conclusion

Yours sincerely

Director

Trust No. IT 4212/99

Board Members: Dr David Fig (chairperson), Prof. Loretta Feris, Ms Thoko Makhanya, Dr Nombulelo Siqwana-Ndulo,
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Biowatch South Africa

Biowatch is a non-governmental organisation established in 1997. We strive for social and ecological justice through challenging industrial agriculture and demonstrating ecologically sustainable alternatives. We do this by supporting smallholder farmers, working with civil society to create joint understanding and action, and constructively engaging with government in implementing policies and practices that promote, facilitate and actively support agro-ecology and safeguard people and land. We have a long track record of working on issues concerning seeds and indigenous knowledge systems at both local and international levels.

Biowatch have been working with smallholder farmers in northern KwaZulu-Natal, supporting them to revive, enhance and multiply their own seed, to use agro-ecology to improve their soil and yields and to build community knowledge and cohesion by working collectively on achieving this.

Biowatch is advocating for a regulatory framework that acknowledges the importance of the informal seed system and the support that farmers should get to enhance this system and the associated knowledge and agro-biodiversity that it mutually supports.

Context of Seed Regulations

The aim of seed regulations and certification systems is to regulate the seed market in such a way that it will provide reliable, quality seed to farmers and support the breeding of improved varieties. However, seed regulations have evolved to become increasingly restrictive and are now used in tandem with plant breeders' rights to protect the interests of seed companies and private breeders at the expense of agro-biodiversity and the independence of farmers.

Modern varieties and their impact on farmers' varieties and genetic diversity.

Over the past 60 plus years, the focus in agriculture has been on the rapid replacement of the informal seed system with the formal system with its modern varieties which is strictly regulated and privately owned.

The varietal purity and uniformity demanded by seed regulations means that the farmer has to continuously return to a genetic base retained exclusively by the seed-producer. As a result, the process of plant improvement and purification does away with the diversity generated naturally during natural multiplication. Also, the modern varieties are generally less resilient and only have 'improved' performance if the cultivation environment is also 'improved' with fertiliser, pesticides and irrigation.

Farmers' varieties have been deemed 'non-varieties' and have received almost no research or extension support but have had to compete with modern varieties and hybrids. As a result there has been a massive displacement of farmers' varieties.

Importance of the Informal Seed Sector and Plant Genetic Resources (PGR) conservation activities

Globally it is increasingly recognised that the informal seed system is of critical importance for food security and the conservation and sustainable use of agro-biodiversity. In the second report on the State of the World's Plant Genetic Resources for Food and Agriculture it states: "*many country reports indicated that informal seed systems remain a key element in the maintenance of crop diversity on farm and can account for up to 90% of seed movement*"¹

Farmers continue to save seed and informal seed systems have survived against all odds. This can be ascribed to the fact that:

- Farmers prefer varieties with specific adaptation to local conditions or with tasting/cooking/storing qualities that cannot be obtained from the formal sector.
- Farmers have limited access to credit to buy expensive modern varieties every year.
- Farmers themselves can easily produce seed of an acceptable quality.
- The research system is not putting a high priority on developing genotypes specifically adapted to their production environment.²

The informal and formal systems are in constant interchange: seed from the formal seed sector can be reproduced on-farm and exchanged or sold as either grain or seed. Informal seed systems can produce important new varieties for the formal market. Gene banks and conservation activities are sources of new genetic material for the formal breeding sector, while sometimes assisting farmers to recuperate and enhance their own varieties.

It is therefore critically important to consider and determine the impact that seed regulatory systems developed for industrialised, commercial agriculture has had and will have on the informal seed sector, smallholder farmers, conservation and public breeding priorities.

Key challenges for South Africa

1. The current regulatory system does not fit the diversity of realities on the ground.

South Africa has a diverse agriculture and a variety of seed and cropping systems and farmers. It is important to differentiate between different cropping systems, uses for crops (food, cash, conservation, export etc.), types of farmers, and the seed systems that support each of these different sectors. Individual farmers also use different seed systems for different crops. The policy challenge is to support these systems while regulating the formal system in a way that protects the farmer and consumer.

The current regulatory system is based on the assumption that there is only one desirable system, the formal system, which is privately owned and increasingly monopolised by multinational seed companies.

¹FAO. 2010. *The Second Report on The State of the World's Plant Genetic Resources for Food and Agriculture*.

²Louwaars N.P.& De Boef, W.S. 2012. *Integrated Seed Sector Development in Africa: A Conceptual Framework for Creating Coherence Between Practices, Programs and Policies*. Journal of Crop Improvement, 26.p 39-59.

This approach does not reflect the realities on the ground nor is it in step with the most recent research that recognises the importance of these informal systems for food security and in maintaining vital agrobiodiversity. The question is: why does the government only provide protection for one system?

2. *Harmonisation of seed trade laws with other SADC countries is problematic.*

South Africa has been a key driver to harmonise the seed trade laws in SADC and this is a problem for other SADC countries with a radically different agriculture sector where smallholders and the informal sector dominates. It would be very short sighted if South African policy makers would coerce SADC countries to compromise these sectors in their countries to comply with South African standards, as food insecurity in our neighbouring countries will have a profound socio-economic impact on the region.

Comments on specific provisions in the Plant Improvement Bill:

Chapter 1 Application of the Act

1. Section 2 should give some guidelines that **exclude/exempt from the scope of the law, plant material produced by community seed banks, and by smallholder farmers.** The EU law has this exemption and the aim is to protect smallholder and conservation activities from onerous regulations.

Chapter 4, Section 23 Exemptions regarding certain plants and propagating material.

Section 23(1) says that this Bill does not extend to acts that are (b) 'private and non-commercial purposes by the producer thereof for own use.' This is partly good news as private and non-commercial purposes gives some space for activities that is on a small scale and local. However, it is not good that this provision is narrowed to also include '**own use**'. **This means the use does not only have to be private and non-commercial but also for own purposes.** This exemption is linked to the farmers 'privilege provided for in UPOV but is phrased much narrower than what UPOV currently asks for.

Additional Section for public protection.

The Bill should include an additional section that deals with the public interest, including new technologies like GMOs. It should also deal with transparency in the marketing of seeds, including labelling the origin, IPRs on the seed, whether it is a GMO or developed through any other novel technology.

Conclusion:

We appreciate the efforts of the Department of Agriculture, Fisheries and Forestry for workshops and opportunities to contribute to discussions on this Bill.

In the absence of any policy or legislation that recognises and provide legal space for the vital contribution of the informal seed sector, public breeding and conservation activities, seed regulations and trade laws have become tools aimed at preventing farmers from producing seeds independently. These laws are prescribing uniformity not only in plant varieties but also in farming and cropping systems and have led to the erosion of genetic diversity and in the process narrowed down the options for farmers and food security